THE BOMBAY COURIER.

[PUBLISHED TWICE A-WEEK,—EVERY SATURDAY AND TUESDAY MORNING.—PRICE 13 RUPEES PER QUARTER.]

VOL. XLV.] TUESDAY, 16 MAY, 1837. [NO. 9395.

FOR LONDON.—The Ship "*Palmira*" 600 Tons, *William Loader* Commander, will have immediate despatch. Has superior accommodations for passengers, and carries a surgeon. For passage apply to *Messrs. McGregor Brownrigg and Co.*—Bombay, 16th May, 1837.

FOR FREIGHT OR PASSAGE TO LONDON.—The fine A. 1. Ship "*Pestonjee Bomanjee*" 593 tons Register, *Jas. Thompson*, commander, has good accommodation for Passengers and carries a surgeon, Plans of her cabins may be seen at the office of

FERGUSON TURNER & Co.

Bombay, 16th May, 1837.

FOR LIVERPOOL.—The "*Minerva*" "Captain *McPherson*" will sail with despatch for freight or passage Apply to,

DUNCAN GIBB, AND Co.

Dady's Duilding, 16th May, 1837.

FOR OPIUM TO CHINA, the *Emily Jane, T. Randle* Commander, for freight, having immediate dispatch, apply at the office of *Messrs. W. Nicol and Co.*---Rampart Row, 16th May 1837,

FOR THE CLYDE—The *Mount Stewart Elphinstone*, Captain *Small*, will sail about 25th instant, carries a surgeon. For passage apply to *Messrs. W. Nicol and Co.*—Rampart Row, 16th May, 1837.

THE Schooner "*Syeed Khan*" Captain *J. L. Gallie*, will be positively despatched for Singapore and China on the 24th Instant.—For Freight, apply to *Francisco Pereira*, or *Captain Gallie.*—Bombay, 15th May, 1837.
Tamarind Lane.

NOTICE.—Mr. ROBERT MCKIM, is from this date, authorised to sign by procuration for our firm.

EDMOND, BIBBY AND Co.

Bombay, 8th May, 1837.

A CARD.—*Dhackjee Dadajee* begs to announce to the Hindoo community in general, that the Annual Fair of the Temple of "*Shree Dhacklashwer*" at Breach, will take place on Friday, the 19th Instant, where their attendance is respectfully requested.—13th May, 1837.

EAST INDIA AGENCY IN LONDON FOR PASSENGERS, *No.* 11, *Leadenhall street.* Parties arriving in England, will, on immediate application to Mr. ALEXANDER, *East India Passage Agent, No* .11, *Leadenhall street* (*next door to the India House*), secure the most prompt and speedy attention in regard to the clearing and forwarding of their baggage; engaging furnished apartments in town to prevent the expense of resorting to Lotels; procuring immediate return engagements for native servants, and in all other matters consequent on a first arrival in London.

☞ Publishing office of the "East India and Colonial Magazine, No. 11, Leadenhall street.—London, 25th Sept. 1836.

BILLS on Sir Charles Cockerell, Bart. and Co. London, in convenient sets, at 2s|½d. 30 days' sight, may be had of

MCGREGOR BROWNRIGG, AND Co.

Bombay, 16th May, 1837.

FOR SALE.—At Messrs. *Macvicar Burn, and Co's.* godowns.

Champaign from Mumm Giesler and Co.....	..at	~~Rs~~ 45	per doz.
Johannisberg, vintage 1811	do.	35	ditto.
Steinberg....	1822 do.	45	do.
Moselle.....	do. do.	25	do.

Rampart Row, 16th May 1837.

ON COMMISSION the following goods for Sale Stationary 4to. Post, Wove Bath, yellow Wove Bath, large Wove bank Red Black and coloured Ink powder, Black and Red thin folio post, middle thick Vellum black edged ditto, thick tinted do. extra demi marble various foolscap, yellow dutch quills, India rubber, color'd note paper, Saddlery---best hunting Saddles, Black Infantry officers bridles polished chifney bits Martingales Lady's Saddles, Racing Saddles, Hussar Saddles and Bridles complete, with appointments—Tandem Harness, Brass and black mounted buggy harness, carriage ditto, Chariot and Buggy Lamps.

HARD WARE.

Knives-Scissars, Crow Bars, Adzes, Pickaxe's Hoes, felling axes, Spades Saws, Files Rasps, bill hooks, Brass and Iron draw locks, Padlocks and a variety of other articles.

The above will be retailed at a moderate rate on application to *Yates and Co.*—Meadows Street, 16th May, 1837.

NOTICE.—YATES AND Co. have reeeived for sale the following the fresh Stores.—Hams from 5 to 20 lbs. each, fresh Cheese, some very superior dried Rein Deer tongues, dried Ox ditto. Ox tongues in pickle, and in casks of 6,10 and 12, Europe salt beef and pork in small kegs, Bengal Jams &c. Scotch Marmalade just received, Raspberry Jam, Strawberry, Damson, Goosberries, Red Currant, Black Currant Jam, Apple Jam, Apricot Jam, Black Currant Jelly, Apple Jelly, Red Currant Jelly;—finest prunes de roi in liqueurs, preserved Apricots, Pears, Prunes, Cherries and Plums in Brandy.

Liquers.---Noyeau fin, Rosi fin, Orange Curracao, Sirrup de Lemons, do. Cerises, do. Groseille do. Tramboise, Vinagre aux Tramboises, Normandy pippins and a batch of Champaigne.

Soups&c.—Vegetable Soup, Green pea do. Hare Soup, Rabbit and Oyster Soup and Boulli Mutton and Vegetables, Veal and Vegetables, Oxtail and Mock-Turtle Soup;—soft Speldings, Beet root, fresh Oysters and Lobsters, Roast Meat' Carrots, Turnips and parsnips, horse radish, Pears and Plums, dried Herbs, pickled Oysters, fine fresh Sardines, Gorjona Anchovies in oil and salt, Mint Sauce, Pearl Barley, Bristol Tripe, Macaroni and Vermicelli, Red and white herrings in excellent order, Split pease, Anchovy paste and Europe Suet &c.—

Bottled fruits, Damsons, Green Currents, Cherries. Goosberries, green gages, Rea Currants, Black do. Bullaces &c.—Flanders bricks, Pickles, French beans. Walnuts Onions, Picalilia, Girkins, India pickle, pickled Mangoes, Cauliflower, mixed Pickles.

Sauce.—Beef-steak sauce, Mushroom and Walnut ketchup, London sauce, John Bull sauce, Universal sauce, Reading sauce Harvey's sauce, Tomata sauce, Anchovy sauce, Salad Oil, Royal sauce, Mustard, &c. &c. Meadow Street.

YATES AND CO.—have just receivep for sale Carriages now landing from the *Palmira* just arrived from London.

A handsome fashionable light Barouche, painted *Chocolate*, relieved with red ornaments, handsome drab lining, Morocco Squab and Cushions, Silk Lace trimming, enamelled leather head and apron Barouche seat and knee flap, Hind foot-board, Brass mountings, and Pole Hook complete with patent axletrees.—price ~~Rs~~ 2,000.

A fashionable light Britscha, with attached boot and knee flap, complete—patent axletrees, painted olive green, relieved light green; enamelled Leather head, Drab lining, Morocco Squabs and Cushions, Hind foot board, Brass furniture, Painted Garters on doors, Dasling Iron &c. completed in the best manner, Elliptic springs and wrench for wheels complete. Price Rs. 2,000.

Apply to YATES AND CO.

Meadow Street, 13th May 1837.

YATES AND CO.—have received for Sale some very superior Scotch Ale recently imported per *Mount-Stewart Elphinstone*—also capital Scotch Whiskey and a batch of Brown Stout.

Bengal Goracho lately received and new Black and Green Tea, also a batch of capital Manilla Cigars.—Meadow Street, 16th May 1837.

ON SALE,—Two handsome Piano-fortes made by Mortimer and Anderson of Edinburgh, apply to *Capt. Robertson, at* Messrs. MACVICAR BURN & Co's. Office, —Rampart Row, Bombay, 16th May, 1837.

ON SALE.---At the Godowns of Messrs. HIGGINSON AND CARDWELL.

A Britzka.....	price	Rs.	2000
Two Phaetons.....	do.	do.	2100
And two Stanhopes,.....	do.	do.	900

With Brass mounted Harness complete Terms Cash.---Rampart Row, 16th May, 1837,

ON SALE.—At the Godowus of Messrs. HIGGINSON AND CARDWELL a small quantity of the following choice old Wines, Madeira in Hhds, quart, Casks, and 3 dozen cases, Sherry Pale and Brown, in Hhds 3 dozen cases, and Port and Claret in 3 dozen cases.—Rampart Row, 16th May, 1837.

ON SALE.—At tle Godowns of Messrs. HIGGINSON, & CARDWELL, a few Hhds of Hodgson's Pale E. I. Ale of the October brew, now landing from the "Lintin"—also a small quantity of prime London Porter, and Burton ale in Bottles.—Rampart Row, 16th May, 183-.

TO BE LET.—A commodious airy pleasant, upper roomed Bungalo at Cambala, opposite to the Bee Hive, presently occupied by *Mr. Mathews de Cruze*, and will be vacated on the 20th May, apply to Moody *Sorabjee Wacha Gandy*, at his Office opposite to the Town Major's Office.—Bombay, 16th May, 1837.

MILITARY ARRIVALS AND DEPARTURES.

ARRIVALS.—None.

DEPARTURES.

Ensign Compton, attached to 16th Regt. N. I.
Cornet W. Marriott, 1st Lt. Cavalry, to Rajcote.
Do. J. C. Graves, Do. do. to do.
Do. G. C. Kemball, Do. do. to do.
Lieut. Col. Thomas Dickenson, Engineers Corps, to Deccan.

DOMESTIC OCCURRENCES.

BIRTH.

On the 8th instant, the lady of Major Groundwater, of a daughter.

MARRIAGE.

On Tuesday, the 2d of May, at Kotagherry, Nielgherry Hills, by G. D. Drury, Esq. Principal Collector and Magistrate, Lieutenant William Carlisle Stather Qr. Mr. 1st Grenadier Regiment N. I. to Charlotte Anne Seymour, youngest daughter of the late Lt. Col. W. Ormsby, Madras Army.

SHIPPING ARRIVALS AND DEPARTURES.

ARRIVAL.

May 13th.—Barque Sir Herbert Compton, F. S. Boulton, Master, from China 17th March, Singapoor and Point de Galle, Spoke the Duncan on the 9th off Goa.
passengers.—7 Natives.

DEPARTURES.

May 13th.—Ship Fort William, H. Fraser, Master to China.
Passengers,—Col. P. C. Baddeley, C. B. Mrs. Baddeley. Miss Baddeley, J. Russell, European Servant to Do. one Native Female Servant.
— 14th.—Ship William Turner, Charles Leitch, Master, to Liverpool.
Passengers,—R. X. Murphy Esq. Mrs. Murphy and child, Doctor Freeman, Lieutenant Wakefield, Mr. John Bellew.
— 15th.—Barque Regulus, John Edger, Master, to London.
— 15th.—Portuguese Barque Tranquilidado, Françisco Joao Marques, Master, to Malaca.
Passengers.—Mr. J. de Souza, Mr. C. V. de Rocha, Mr. C. A. Brandao,

THE COURIER.

TUESDAY 16th MAY, 1837.

H. M. S. *Winchester* sailed yesterday, with his Excellency Sir Bladen and Lady Capel on board, for Colombo. Mr. and Mrs. Ironside were also passengers to Calicut, and proceed from thence to the Neilgherries.

A report has been going the rounds of the Indian papers that his Excellency had applied to be relieved from his command on the score of ill-health. We are very happy in being able to contradict this, and to state that in all probability it will be retained by him, until the usual period of service has expired, and that ere this we may anticipate the pleasure of being revisited by the *Winchester*.

Our speculations as to Steam Arrangements are at a stand-still. The determination of the Supreme Government is of course looked to, after they shall have been apprised of the despatch of the *Hugh Lindsay* to the Persian Gulph: and we believe that some propositions to them are pending from our own authorities. Whatever the purport or issue of these may be, and whether we be aided or not by the other Presidencies, we feel assured that the despatch of a Steamer to the Red Sea, during the ensuing Mon-soon will not be lost sight of. No partial or singular success by the Syrian Route, nor the Pæans of the select few who uphold it, and which we hear are in preparation, can or ought, or will, we think, divert us from this.

The Rules for the newly instituted Orders for the Native army will be found in our columns of to day.

A fire broke out on Sunday Morning last near the large hay-stacks opposite the Baboola Tank—the Haymarket of Bombay—and was first observed soon after four o'clock. At day break the wind being low, there seemed some chance of checking the progress of the flames, but it rose shortly after, and from the closeness of the stacks it then became evident that the whole would be consumed, and in a quarter of an hour, twenty nine large stacks were on fire, and continued burning or smouldering though the day. The Police Engine was there immediately the fire was discovered; one from the Mazagon Dock Yard, and two from the Piquet shortly after, and two more from the Fort by 6 A. M. but had the whole been there at once, we understand that they would have failed in extinguishing it. What might have been accomplished by an effective Fire Establishment we cannot pretend to say: our present one is notoriously fitted only for Lilliputian purposes. The fire is supposed to have orginated in the carelessness of the people who have charge of the stacks; at least so it stands after every inquiry. This however is the third time that the stacks at this place have been burnt down, and at this particular season of the year, leading to a most inconvenient rise in the price of hay and straw.

MADRAS.

MADRAS HERALD.—MAY, 3.

Captain GRINDLAY's pamphlet on *The state of the Question as to Steam Communication with India* appears to have given very general satisfaction at home; but it has not been quite so successful in India, for, in his endeavours to conciliate the three Presidencies, each of which has a hobby of its own, Captain Grindlay has nearly shared the fate of the Old Man and his Ass and pleased nobody.

The *Calcutta Courier* is not at all satisfied that the author should have blinked the question of the extent to which Steam Communication should be carried on its first establishment, and very pathetically complains that there is not a word about the Calcutta Plan, or rather *the* plan for all India, although the Bombay plan and the Madras plan are both noticed—and this too, not by an indifferent person but by the *Agent of the Bengal Committee*, "pledged in his own letters to forward their interest and support their scheme?!"

Now as we are not aware to what extent Captain Grindlay pledged himself to support the Calcutta Scheme it is impossible to say how much he is to blame in having said so little about it—but supposing he only expressed himself in general terms favourable to the Comprehensive Plan, which is all that is likely from a person at that distance from the Ditch, we do think the complaint of the *Calcutta Courier* very unreasonable. Captain Grindlay's main object, as an Agent for the promotion of Steam Communication between India and England, was, evidently, to distribute as much information on the subject as he could collect, and thereby excite the interest of the public; an object which he appears to have most satisfactorily accomplished; and although the people of Madras have some excuse for being dissatisfied with Captain Grindlay for having introduced the obnoxious resolution into their Steam Petition, in direct opposition to their wishes, the people of India generally have abundant reason to be satisfied with the means which he has taken to agitate the question.

CALCUTTA.

No. 94 of 1837.—In continuation of General Orders, No. 83 of 1837, The Right Hon'ble the Governor General of India in Council directs, that the following Rules and Regulations be established, for the "Order of British India" and "Order of Merit," the institution of which has been sanctioned for the Native portion of the Indian Army.

"Order of British India."

This Order is to be conferred by the Governor General of India in Council, on Native Commissioned Officers of the Indian Army, for long, faithful, and honorable service.

The 1st Class to be composed exclusively of Subadars and the corresponding grades in the

50	for Bengal.	Irregular Cavalry, and limited to
34	for Madras.	100 Members, with an allowance of
16	for Bombay.	two Rupees a day each, in addition to their Regimental Allowances or Retiring Pensions.
100		

The 2d class or Native Commissioned Officers indiscriminately, with the same limitation

50	for Bengal.	as to number, and an allowance of
33	for Madras.	one Rupee a day each, in addition
17	for Bombay.	to their usual Allowances and Pensions.
300		

The Native officers on whom the Order of British India may be conferred, in the first instance, will be entitled to the Extra Allowance going with that distinction, from this date.

The Insignia of the Order to consist of a Gold Star pendent from a sky-blue ribbon, one inch and a half broad, to be worn round the neck on the outside of the collar of the Coat, on full dress parades and other occasions, of particular ceremony. In the centre of the Star is to be inscribed in English only, "The Order of British India."

Subedars of the 1st class will receive the title of "Surdar Bahadoor," and Native Officers of the 2d Class of "Bahadoor."

A descriptive Roll, specifying in a column for remarks, the general conduct, character, and services of every Subadar and Jemadar in the Armies of the three Presidencies, will be immediately forwarded, (and a similar Roll transmitted annually on the 1st May) By Commanding Officer of Corps respectively, through the prescribed channel of Military correspondence, to the Secretary to the Government of India in the Military Department, for the information of the Governor General in Council.

In forwarding these Rolls, His Excellency the Commander in Chief in India, and the Commanders in Chief at Fort Saint George and Bombay, are respectively requested to offer such recommendations grounded on the statements of conduct, character and services of each Native Officer reported upon, as may facilitate the selection by the Supreme Government of the most deserving of them, for a participation in the honorary rewards and solid emoluments attached to the Order. The Rolls from Fort Saint George and Bombay will be transmitted though the Local Governments of those Presidencies.

Native Officers of Cavalry, Artillery and Infantry of the Line, of the Sappers and Miners, and of the irregular Cavalry of Bengal and Bombay, are eligible for admission in to the Order of British India.

The number of both classes being fixed and permanent, every vacancy which may occur after the completion in the first instance of the whole promotion, will be filled up by the Supreme Government from the Rolls recorded in their Secretary's Office.

Vacancies can only occur from death or removal for misconduct, and admissions into the Order will be announced in General Orders by the Government of India.

"Order of Merit."

The object of this Institution is to afford personal reward for personal bravery, without reference to any claims founded on mere length of service and general good conduct.

The Order is to consist of three classes; the two Junior to be distinguished by a badge of Silver, and the Senior by a badge of Gold in the shape of a Military Laurelled Star, bearing in its centre, the inscription. "The reward of valour."

This badge is to be worn on the left breast pendent from a dark-blue ribbon with red edge.

3rd Class.

Is to be obtained by any conspicuous act of individual gallantry on the part of any Native Officer or Soldier in the Field or in the attack or defence of Fortified places, without distinction of rank or grade.

2nd Class.

Is to be obtained by those only who already possess the third, and for similar services.

1st Class.

Is to be obtained in like manner only by those who already possess the third and second classes.

Admission to each of these classes is to be obtained upon application to the Governor General of India in Council, with whom alone the competency of conferring the Order rests.

The original recommendation must particularly specify the act of gallantry for which the Soldier is supposed to have claims to this high distinction; and the preparatory steps to obtaining it, are to be as follows:

After an action, in which particular acts of gallantry have been performed, which may be considered as entitling a Soldier to the "Order of Merit," a representation of the circumstance is to be made through the Commanding Officers of the Regiment, by the Captain or Officers Commanding the Troop or Company, to the General Officer Commanding the Division, who will order a Court composed of European and Native Officers, and consisting of one Field Officer, two Captains and two Subadars (the proceedings to be conducted by an Officer of the Judge Advocate General's Department if available) before which the individual recommended will be brought, when witnesses will be called and examined as to what they saw the Soldier perform in the action referred to.

Should there be any failure of proof, the claim is not to be allowed, but on the other hand, should the particular gallantry of the Soldier recommended for the distinction

appear to have been conspicuous and undoubted, the report of the Court will be forwarded in Bengal, through His Excellency the Commander in Chief in India, and at each of the other Presidencies through the Commander in Chief and Local Government, to the Governor General of India in Council, who has nevertheless the power of rejecting the claim, for reasons to be recorded at the time.

A record in each case of the particular act of gallantry for which the Star has been conferred will be kept in the Office of the Secretary to the Government of India in the Military Department, and a Certificate from that functionary, detailing the grant of the Order, and its concomitant advantages, will be given to each Individual on his admission to, or advancement in it.

Admission into the Order of Merit, will confer on a Member an additional allowance, equal in the 3d Class to one-third, in the 2d to two-thirds, and in the 1st to the entire of the ordinary Pay of his rank, over and above that Pay, or the Pension he may be entitled to on retirement.

The Widow of a Member will be entitled to receive the Pension conferred by the Order upon her Husband, for three years after the date of his decease; and in the case of a plurality of Wives the first married is to have the preference.

No claim founded on acts of gallantry antecedent to the date of this General Order, shall be considered admissible under any pretence whatsoever.

WM. CASEMENT, *Col.*
Secy. to the Govt. of India Mily. Dept.

DELHI GAZETTE.—MAY 3.

We have much pleasure in informing our readers, that the Medical Officers, who were deputed to Narnoul, to investigate the nature of the disease prevailing there, have reported that it is *not the plague* but a bilious remittent fever which first made its appearance about four months ago. The mortality has been very great particularly during the month of March when from 20 to 30 *died daily*. The mortality is attributed to crowded houses, filth, want of ventilation, and the total absence of Medical assistance. The same epidemic has been raging at Shekawatt and the Jhujjur Nawab's Country.

We understand, that Colonel Skinner considers the Palle Plague to be, from the symptoms explained by the Medical men, who have investigated it, exactly the same, in all its features, even glandular swellings, to the dreadfully malignant fever, which proved so fatal at Hansi, in 1828-29: he considers that the disease has *left* these Provinces, and is spreading *outwards*.

We are glad to hear that Colonel Alves writes that the Plague has made no advance in his quarter for these six weeks past—To the South and East, however, he says it has made some progress.

We understand that His Excellency the Commander in Chief will visit Nusseerabad, Neemuch and Mhow next cold season.

CAPE OF GOOD HOPE.

SUPREME COURT.

Criminal Sessions.

Before the Honorable Mr. JUSTICE MENZIES, THURSDAY, THE 19TH OF JANUARY, 1837.

CHARLES GRANET, and HENRY DOUGLAS COWPER were charged, the first with *sending a Challenge to fight a Duel;* the second with *delivering a Challenge to fight a Duel,* and both with *Provoking and Inciting to fight a Duel.*

Both pleaded "Not Guilty."

The ATTORNEY GENERAL shortly opened the case, and called—

CHARLES GEORGE DE LORENTZ.—I am Judge and Superintendant of Police.

On the 18th November last, I wrote a letter to Major Gregory of the 98th Regiment, relative to the conduct of Messrs. Granet and Kennedy.

On the day following, in the afternoon between 3 and 4 o'clock, I was walking up Short-market-street, in company with Mr. Carey, Commissioner of Stamps, when Mr. Granet, the defendant, came after me, and when within a few paces of me, he requested to speak with me.—he said:—"Baron, will you allow me to speak with you;" I left Mr. Carey and joined Mr. Granet.

Mr. Granet then addressed me to the following purport, as nearly as I can recollect:—

He said, "in a letter which you have addressed to Major Gregory, you say that in consequence of the disgrace that has alredy attended one of the party—to what party do you allude."—I replied, "I allude to the circumstance of your having been forcibly taken to the Watch House."

Mr. Granet said, "very well," and instantly left me; I then rejoined Mr. Carey, but I had scarcely done so when Captain Cowper came after us and also requested to speak with me.

He said words to the following purport, I cannot be positive as to the exact words.

"'Mr. Granet has just been speaking to you on the subject of a letter which you have addressed to Major Gregory, about words therein made use of, and objected to by Mr. Granet;' I said, 'yes.' Captain Cowper then said 'you must apologize for those words or give Mr. Granet satisfaction.'"

I said, "Captain Cowper, you take me unawares, allow me ten minutes to give you my answer;" he said, certainly, and left me.

I then joined Mr. Carey and remained for about ten minutes with him; he then went to Captain Cowper to speak on the subject of the letter—he did so on my part and by my request.

I request Mr. Carey to explain to Captain Cowper the view which he, Carey, took of the letter.

I did not express to Mr. Carey my view of the letter; I gave it him to read and asked his opinion.

He then went to Captain Cowper, and they conversed together for some time,—and then they both came to where I was standing

During all the time that Captain Cowper was conversing with me and Mr. Carey, I did not see Mr. Granet; I have no recollection of seeing him.

Mr. CAREY said, "I have fully given my view of the letter to Captain Cowper, but he still appears unsatisfied. Some conversation then passed among the three,—the words of which I do not recollect. Captain Cowper seemed impressed that I must have had some meaning in using the words in the letter to which Mr. Granet objected, which I disavowed,—I mean that I disavowed any personal meaning in them.

I am not sure that I did explain to him the meaning with which I had used them, because I thought that Mr. Carey had fully explained that meaning to him.

I did not tell Mr. Carey with what meaning I had used them; but I asked him to form his opinion on them; and the view he took of them was exactly my own. Captain Cowper then said, "am I to understand, gentlemen, that this is the view you take of the case"—Mr. Carey replied that it was, he could see it in no other light,

Then Captain Cowper said "I am authorized by Mr. Granet to tell you (addressing himself to me) that your conduct has been very despicable, and every thing but what it ought to have been.

After a few moments, in which nothing was said by any person, Captain Cowper left us.

The conversation with him had been near Mr. Kunhart's and in the Heeregracht, and when he left us, he went straight up the Heeregracht to where some officers, among whom was Mr. Granet, were standing; they were standing on the bridge higher up.

By the words used by Captain Cowper,—"or give Mr. Granet satisfaction," I understand him to mean, fight a duel.

The Book now produced in Court is the Record Book of the Police Court, kept in obedience to the Rules of the Court.

The Attorney General proposed to put in evidence the said Book, to which Mr. Musgrave objected, on the ground that it had no connection with the charge; and that it was immaterial and irrelevant, and would not conduce to prove any point or fact in issue in this case. Objection sustained *in hoc statu*, as neither the indictment nor the evidence which had yet been adduced, showed any connection between the crime charged and anything which could be proved by the record of the Police Court.

At the same time the Court stated that circumstances might possibly be proved, which would render the record admissable evidence in this case.

Cross Examined.—I am quite certain that the words "you must apologize for these words, or give Mr. Granet satisfaction," were the precise words used by Captain Cowper.

When examined before the Magistrate, I said, "that Captain Cowper acquainted me that he was sent on the part of Mr. Granet, to require an apology or words to that effect, for the part of the letter objected to by them."

When I said this, I had not weighed and reflected on what had passed, so much as I have done since, and it is from subsequent reflection that I am now able to say that I am certain that the words used by Captain Cowper were those which I mentioned to day. I took no notes.

I am sure there was nothing said about a written apology.

Captain Cowper was scarcely a minute with me.

I asked Mr. Carey whether he had any objection to state his views of the matter to Captain Cowper.

Mr. Musgrave proposed to ask the witness, in what capacity it was he sent Mr. Carey to Captain Cowper.

The Attorney-General objected.

The objection was overruled.

The COURT then put the following question to the witness.

As you say that you understood that Captain Cowper had delivered to you a challenge to fight a Duel,—state whether in requesting Mr. Carey to give you his opinion on the letter and state it to Captain Cowper, you, in the language of Society, put yourself into Mr. Carey's hands as your friend, or in what capacity it was that he was sent by you to Captain Cowper, and what was the view which Mr. Carey expressed of the letter and which as coinciding with your own, you desired him to convey to Captain Cowper.

After Mr. Carey had read the letter and the words objected to by Mr. Granet, he said to me,—

"If you allow these words to be distorted into a meaning which they are not intended to convey, it will be an act of insanity."

I said, if that is your view, have you any objection to explain it to Captain Cowper; he said he had not, and immediately left me to do so.

I mean that Mr. Carey's opinion and view was that the words were not such as to afford grounds for Mr. Granet sending me a challenge, and it was this which I wished him to convey to Captain Cowper.

I have been in the army. I have no hesitation in saying that if Mr. Carey's opinion as to the meaning of the words had not coincided with mine, I would have put myself in his hands as my friend and acted under his direction. But as we both thought that the words did not form sufficient grounds for a challenge, I had not gone the length of constituting him my second. I considered that after the explanation which he gave to Captain Cowper that the matter would go no further.

When Mr. Carey, Captain Cowper, and I were conversing, and Captain Cowper appearing determined not to be satisfied, I recollect saying, "Carey, if you think it necessary I would rather it was within half an hour, but I am in your hands; by it I meant a hostile meeting, between me and Mr. Granet.

I put myself entirely into Mr. Carey's hands on the subject.

My feelings as an old Soldier were a good deal excited when I said this.

In the course of the conversation on the subject, between Mr. Carey and Captain Cowper, I do not remember saying, that I did not hold myself accountable to Mr. Granet for any thing which had been done in my official capacity, or any words to that effect, being used. I did not say in in the course of the discussion in the hearing of Captain Cowper, that the letter was official, or that it had been written in my official capacity, nor did I mention the word official, but I rather think Mr. Carey did so. But I am certain that Mr. Carey said to Captain Cowper, it was an official communication made in courtsey to the Commanding Officer.

I have been in the service, and according to my view of the rules of the service, in the circumstances in which this letter was written, I should think that although an official letter, the most proper mode of commencing it would be "My Dear Gregory" if the writer and the person addressed were on such friendly terms as I was with Major Gregory.

I think Captain Cowper before he left us, said "Baron, I will give you an hour to consider." I understood him to mean to consider whether we should take a different view.

No answer was given to him. The offensive words "despicable, &c.." had been used prior to this—

That he would give me an hour to consider, was the last thing which was said.

The view with which I wrote the letter to Major Gregory, was that he might not be in dark as to the steps I intended to take.

The letter was not written with a view that Mr. Granet should be brought to a Court Martial for his conduct, nor did I consider it could lead to that result.

I considered it my imperative duty in the protection of the Police, that further investigation should take place; when the letter was written, the decision by the Resident Magistrate had just been given, and I had not as yet commenced proceedings for bringing it under the Review of the Supreme Court; there had not been time to commence.

I felt it my duty in the protection of the Police, to communicate what had passed to the commander-in-Chief.—I did not consider what would be the result of that communication, but I was certain it would not be a Court Martial,

I must explain that I had formerly been called to account, for not having communicated to the Governor and Commander-in-Chief, certain occurrences between the Military and Police, but those matters had not previously been adjudicated on by a Civil Court—or made the subject of a Police investigation.

I was then not at the head of the Police Court.

When I was in the Service, if an Officer had failed to resent that which his Brother Officers considered a direct insult, he would have placed himself in an unfortunate predicament he would probably have been recommended to leave the Regiment.

Having once put myself in the hands of Mr. Carey, I considered him responsible in the eyes of the community for every subsequent part of the transaction.

The letter now shown to me is that which I wrote to Major Gregory, and which afterwards formed the subject of discussion.

I afterwards made an affidavit, in consequence of which Mr. Granet and Capt. Cowper were bound over to keep the peace.

BY THE COURT.—It is the practice when I write Official Letters to subjoin to my signature the words "Judge and Superintendent of Police," which are not in the letter in question. But I did not think it necessary to do so in, this letter, as it was written in courtesy to Major Gregory who was my intimate friend, and to whom I had on former occassions written Official Letters out of courtesy on similar subjects connected with the Military and the Police.

The transaction between the Police and the Officers alluded to in the letter, took place on the 30th October, and the Officers were tried by me on the 3d Nov.

Between the 3d Nov. and the 18th, I did not make any communication on the subject to the Commander-in-chief; I was waiting the result of the proceedings in the Court of the Resident Magistrate.

I don't know when those proceedings commenced, but the trial took place on the 17th Nov. I think about ten days before the 17th I had heard of the intention to institute such proceedings.

I had made no communications to the Commander-in Chief between the 3d Nov. and the day when I first heard of the intention to proceed before the Court of the Resident Magistrate.

I would have made report of what had been proved to my satisfaction in my Court as to the conduct of the Officers to the Commander-in-Chief, if no proceedings had been resorted to in the Court of the Resident Magistrate.

I considered that my men were oppressed by the prosecution in the Court of the Resident Magistrate, because the charge had been proved fully before me against the Officers.

In my Court the Officers of the Police were examined, and not the Officers. In the Court of the Resident Magistrate the Officers were examined, and not the Police Officers,—all the other witness were the same in both Courts.

I was not in the Magistrate's Court the whole of the time, but I heard Mr. Granet give part of his evidence.

The trial of the two officers were not separated in my Court; neither of them applied to have their trials separate; and of course could not be examined as witness.

I have no recollection of any other person having made such an application nor of it being made by Mr. Harding, who applied to be allowed to assist them on their trial.

In the course of the morning, before the trial. Messrs. Granet and Kennedy had come to the Police Office, and stated they had a complaint against the Watch.

I told them that I regretted to inform them that a Report had already been made against them. I told them that a complaint had been lodged against them.

After their Trial, they wished the cross complaint against the Police, at their instance to be proceeded in but I refused, on the ground that I was fully satisfied with the Evidence which had been given in the case against them.

What I considered to be the oppression which my men had undergone, and which made it my duty to report the case to the Commanding Officer, was, that my men were tried by the Officers before the Magistrate, for an offence, in which I considered it had been proved in my Court that the Officers had been the aggressors: the letter, although written in courtesy, and to Major Gregory, as a friend, was an official one, and was intended to convey to him a full account of the facts which had taken place.

I did not think it necessary to mention the fact, that two Soldiers of the 27th Regiment had been called by the Officers to invalidate the evidence of the Police, although I stated that they had made no attempt to do so by cross examination.

The Evidence of one of the Soldiers, I considered immaterial, as he had not seen the begining of the affray, and I did not give credit to the statement of the other, although I did not go the length of considering him guilty of Perjury.

I mean by this that I gave credit to this Soldier's Evidence as far as it went, but I did not consider that it invalidated any part of the Evidence of the Policy. I considered that unless by some accident his back had been completely turned away from the spot, he must have seen things mentioned by the Policeman which he said he did not see.

The Witness being asked why, when he considered that the opprssion his men had suffered, had been by proceedings in the Court of the Resident Magistrate, an inferior Court, he had applied for redress to the Commander-in-Chief, instead of the Supreme Court, replied, I can give no direct answer to that question.

I was not aware that I could apply to the Supreme Court in such a case.

One of the reasons of my applying to the Commander-in-Chief was, that if it had not been for the way in which the Officers were dressed on the night in question, no occurrence of the kind would have taken place.

The letter was written solely that Major Gregory should not be in ignorance of what I was going to do, and not for the purpose of, or in expectation of his taking any steps or interfering in the matter.

By the passage in the letter "but in consideration of the disgrace that has already attended one of the party." I meant the disgrace which had attended Mr. Granet; and by disgrace I meant only his being forcibly taken to the Watch House.

I did not mean to say that Mr. Granet had been taken forcibly to the Watch House under any circumstances which were disgraceful, but merely that he had been taken forcibly to the Watch House.

I should consider that being taken to the Watch-house, under any circumstances, is attended with disgrace; and I alluded to it in the present case, as the reason for not inflicting any Penalty.

I mean that the reason for not inflicting any penalty on Mr. Granet was, that having been engaged in an affray, he had been taken to the Watch-house, having forcibly resisted.

I remember after the Trial, when I was giving Judgement, and when one of the officers made some objections, that I mentioned that they knew I had been unwell, and that this prevented me from having gone more fully into the case; by which I meant, from going more fully over the case in giving Judgement.

But not from having more fully investigated the case under Trial.

I had made the investigation with the greatest pains on the Trial.

The message given to me by Captain Cowper, was given to me while still only in a state of recovery from the illness which I stated I had suffered under, I have never felt quite well since the attack of my illness, possibly my memory may have been afflicted to a certain extent by my illness, but I am not aware of it.

By the JURY.—Copies are kept in the Police Offices of all official letters. The copy was made before it was sent, by one of my Clerks.

The letter was written in the Police Office and copied by my clerk in the usual way, and the copy kept according to this practice.

By the COURT.—In my hearing no communication was made to Captain Cowper, that I did not consider myself responsible to any private persou for any expression used in that letter, because it was written in my official capacity.

JAMES CAREY.—I am Collector of Stamps.

I was present with the Baron Lorentz when Mr. Granet on the 19th Nov. addressed him in Shortmarket-street.

I did not hear what passed between the Baron and Mr. Granet, nor between the Baron and Captain Cowper.

First Mr. Granet came up, and almost immediately after went away, and just as the Baron was rejoining me, and before he had spoken to me, Captain Cowper came up.

After Captain Cowper had gone, the Baron showed me the copy of a letter which he had written to Major Gregory, and asked me to give my opinion of it, he did so immediately and took it out of his pocket.

When he put the letter into my hands he said, "do you think there is any thing in that letter at which any one could take offence," or words to that effect.

After reading the letter, I said, I think I see the passage at which offence has been taken, but there does not appear to me any thing in it which any person ought to take offence at; the passage was that in which the word "disgrace" occurred.

I think I said to the Baron that I thought I saw what he meant, namely, that there was a certain degree of disgrace attending the being put into the Watch House; he said "that is exactly the view I have taken of the case," and he then asked me if I would have any objection to go to Captain Cowper on his part, and give that explantion of that passage in the letter.

He also desired me to say that he considered the letter to be an official letter, and that he had written it solely out of courtesy to Major Gregory, thinking it his duty to apprize the Commanding Officer of the Regiment of his intention to lay all the circumstances of the case before the Commander-in-Chief.

I went to Captain Cowper, and mentioned to him on the part of the Baron, that by the word disgrace, it had not been intended to imply that Mr. Granet had disgraced himself, he merely intended to say, that as there was a certain disgrace attending being put in the Watch House, he considered it to be sufficient punishment, and to have justified him in not enforcing any fine.

I mentioned that the letter had been written in courtesy to Major Gregory; that the Baron had but thought it right to acquaint the Commanding Officer of the Regiment of his intention to lay the whole of the circumstances of the case before the Commander-in-Chief.

I am sure that I said to Capt. Cowper that the Baron considered it an official letter. Captain Cowper was not satisfied with this explantion, and he came back with me to where Baron Lorentz was standing.

I mentioned to Captain Cowper that the Baron did not consider that there was any thing in the letter for him to apologize or give satisfaction for. And when he came to the Baron, he asked him if he remained of the same opinion as before, and finding that he did so, he said to him—"I am authorized by Mr. Granet to say, that you have acted despicably," or "that your conduct has been despicable and every thing but what it ought to have been."

I think Captain Cowper before going away said, if you should wish to speak to Mr. Granet, he will be here or walking here for the next hour or half hour; and then went away.

In the course of the conversation between the Baron, Capt. Cowper and myself, I think the Baron referred himself to me and said if I thought, he ought to fight he was ready to do so.

Although I knew that Mr. Granet, as an officer had taken offence at that word disgrace being applied to him and that my friend Baron Lorentz had used the word without any offensive intention I never proposed to withdraw or retract the word Disgrace.

When I first went to Captain Cowper, I did not consider myfelf as *the friend* or second of the Baron, to arrange the proceeding to be adopted but merely went as a friend to give the explanation which I have mentioned.

I am certain that it was after Captain Cowper had used the expression Despicable that the Baron referred himself to me and said he was ready to fight if I thought he should do so and I said I thought it would be perfectly absurd for him to do so.

By which I meant not because of the letter having been official, but because it would be absurd to fight on the ground of such an expression explained as this had been and it was after I had said this that Captain Cowper said Mr. Granet would wait there for an hour

The conversation took place at Kunhardt's shop, and about the end of it I saw Mr. Granet standing with other Officers at the Bridge opposite Mrs. Rabe's.

I had nothing more to do with this affair after this nor went to any person on the subject.

I did not convey to Captain Cowper any expression of regret from the Baron that he had used the words Disgrace or had hurt Mr. Granet's feelings.

I understood from the Baron that no absolute demand for satisfaction had been made in the first instance but that Captain Cowper had requested either an apology or satisfaction.

The fact of the letter being official or unofficial had nothing whatever to do with my opinion as to the propriety of the Baron apologizing or fighting.

Even if the letter had been official if I consider that it contained any offensive expression I would have advised the Baron to apologize or give satisfaction for it.

I did not at the time form any opinion as to what was to be the termination of the affair after the Baron had declined giving satisfaction and Captain Cowper had used the word despicable.

I do not consider that if any expression had been made use of by the Baron while sitting on the Bench as a Judge of Police he ought to have allowed any person to call him to a personal account for it.

I cannot be sure as to whether the expression made use of by Captain Cowper was either "You have acted despicably," or "Your conduct has been despicable." I think the latter but I am sure the word "despicable" or "despicably" was used.

CHARLES GEORGE DE LORENTZ recalled.—I had the copy of the letter in my pocket when Mr. Granet spoke to me I had taken it home the preceeding day and had forgot to leave it at the office that morning.

I had not shown this copy to any person before Mr. Granet spoke to me but I had mentioned its contents to the Commander in Chief that morning—I had mentioned it to no other person. I did this preparatory to the communication which I meant to make to him on the subject of the affair between the police and the Officers.

I mentioned the contents of this letter to the Governor, in his capacity of Commander in Chief. I mentioned to Capt. Cowper that this letter had never been the subject of conversation between me and any person.

It was before I had mentioned this to Capt. Cowper that I had mentioned the letter to the Commander in Chief but when I said this to Capt. Cowper I did not think it necessary to make any exception as to the Commander in Chief as the letter itself bore that the subject was to be communicated to him. My object in mentioning this letter to the Commander in Chief was for the purpose of ascertaining the least painful way in which I could extricate myself from the difficulties in which I considered myself placed,

MARTIN THOMAS WEST.—I am a Justice of the Peace, I reside at Leeuwen Hof. On Sunday, the 20th November, the Baron Lorentz made an Affidavit before me, in consequence of which I afterwards took proceedings with regard to the Defendants.

The Defendants entered into Recognizances before me to keep the Peace and to answer any charge which might be brought against them on the subject. Some little conversation passed between me and the Defendants while I was filling up the Recognizances.

Mr. MUSGRAVE here objected to any confession being given in evidence, unless proved that the Defendants had been duly cautioned by the Magistrate in terms of the 28th Section of the Ordinance No. 72.

The ATTORNEY GENERAL maintained that that Section applied only to confessions made in the course of a judicial examination, and he denied that the proceedings before Mr. West were a judicial examination.

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efore deciding on the objection the Court allowed the wing evidence to be taken:

produce an information made before me, on oath, by on Lorentz. In consequence of that information I warant for apprehending the Defendants and g them before me; that Warrant was afterwards, direction, filed in the Police Office. They appeared ore me at Police Office. I caused them to enter ecognizances, which I now produce, and which I ards lodged, with the information on which they eded, in the Office of the Clerk of the Peace.

e information and Recognizances put in and read.)
e information had been read by Mr. Granet before he d into the Recognizance. I did not caution either of efendant in terms of the Ordinance. I did not ask Defendants to make any statement or explanation. I ot take any "*preparatory examination*" against the ndants.

did not examine any Witnesses in their presence.

he Counsel on both sides were then heard in support nd against the objection taken, and the Attorney Gel particularly referred to the decision on a similar t given by the Court of Commission of Piracy, in the e of Small.

he Court was of opinion that the objection was goood, that the evidence should not be admitted. But in sequence of the decision in the case of Small the Court ught it necessary to allow the evidence to be taken, rving for the consideration of the full Court the ques- as to its admissibility: and to raise the question fully, Court meant to desire the Jury, in the event of their ing either of the Defendants Guilty, to specify in their dict whether this finding was influenced by the evie, the admission of which was objected to.

he Attorney General stated that he thought he would able to prove the fact which it was proposed to prove, he objected evidence, and therefore would not call on Court to overrule the objection and admit the evidence l he had seen whether he succeeded in doing so or not.

ARTHUR CHARLES GREGORY.—I am Major of the Regt. in which the defendants hold commissions. I eived the letter which I produce from the Baron Lotz on the 18th November, (same formerly put in) I re- ved the letter in the evening, and communicated the ntents next morning to Mr. Granet and Mr. Kennedy. lid so, because it was mentioned in the letter, that disce had attended one of the parties. I have heard Mr. anet talk of the steps which he took in consequence. I derstood from him that he wished the word disgrace thdrawn, and had sent Capt. Cowper to him for that rpose.

Cross examined.—I did not consider the letter to be ofial. It was not addressed as an official letter, and neier began nor ended as official letters generally do. As mmanding Officer of the regiment, I felt it my duty to quire from Mr. Granet and Mr. Kennedy an explanan as to the disgrace alluded to in the letter, which, it ned out, was intended to apply to Mr. Granet, and refore I put the letter into their hands; Mr: Granet n gave me an account of all that had happened between Officers and the Police, and of his having been taken the Police Office and of the proceedings in both urt: (Resident Magistrate and Police) and I was satisd that no disgrace had attached to Mr. Granet; in conquence, I thought that Mr. Granet, for the satisfaction the Officers, was bound to get the word disgrace withawn, particularly as there are so few of the Officers of e Regiment here, and so many in England, the Colonel d most of whom are unknown to him: and I thought, t if the word 'disgrace,' as attached to his name, reachthem in any way, it might do him a material injury. was my decided opinion, as Mr. Granet's Commandt Officer, that he was bound to demand an explanation that word from the Baron, but I gave him no advice to so. Had he omitted to do so, I think, although the ficers here, to whom the whole affair was known, and fact that no disgrace attached to him, might not have en affected by such an omission, yet that it would have ne him most material injury with the officers in Enand. The word disgrace is one of the harshest terms hich can be applied to a military man. I think most cidedly he would have been sent to coventry by his broer Officers in England, and very probably his personal urage would have been suspected. I never remember ving heard him say "that he had sent a challenge," in se precise words. I never asked him, nor did I hear m the particulars of what had taken place between apt. Cowper and the Baron.

Re-examined.—I understood from what Mr. Granet d that he had sent a message to the Baron, though I d not hear him say, in so many words, that he had deanded satisfaction. The word disgrace attached to the me of a military man, must damn him, if suffered to emain unremoved.

By the Court.—If the word disgrace, attached to Mr. ranet's name, had reached the horse guards, his promoon would have been stopped until the whole affair had een completely cleared up and explained, and if a vacany had occured before the explanation could have taken lace, another Officer might have been put over his head. have never *myself* known the case, where an Officer has been tried before a Court Martial, for having received an nsult, and not taken means to obtain redress. A charge f unofficer like and ungentlemanly conduct, is a charge hat may be tried before a Court Martial. I have read reports of cases of Officers having been brought to trial on uch a charge, for not having taken measures to obtain personal satisfaction for an insult which they had received. And I recollect reading of a late case of the kind, which occurred in the East Indies, where an Officer was found guilty on such a charge, and was sentenced to be dismissd the service. I think this case occurred in the 89th egt. I am well acquainted with Mr. Granet. I think hat if an Officer soon after joining a Regiment, to the Officers of which he was unknown, had suffered the word disgrace to be attached to his name, without taking measures to have it withdrawn, or to have personal satisfactin, I think he would not be suffered to remain in the Reiment, at least the Officers would not have spoken to im; and I think this might have been Mr. Granet's case, with respect to the officers in England, if he had suffered he word disgrace to remain unexplained. I have received, ince my return to the Colony, several letters from the Baron on trifling subjects, such as the state of Barrackstreet; as to a Policeman having been found drunk in a house in Barrack-street by a picquet. I did not consider those letters official. Hearing from Mr. West that the Baron considered them to be official, I applied for copies of them, and was told that there were none; they commenced and ended in the same way in which that of the 18th does, as far as I recollect. If Mr. Granet applied to the Baron to have the word disgrace withdrawn, and the Baron had neither withdrawn it, nor expressed regret for having used it, I as a military man, think that Mr. Granet, as an Officer, could not have allowed the matter to stop there, but must have called the Baron out. I recollect the letter which the Baron wrote to me about the Policeman having been found drunk by the picquet. I do not recollect whether any depositions were sent along with it, but so little did I consider it official, that I neither kept a copy of the letter nor of my answer.

HARRY GEORGE SMITH.—I am Lt-Colonel in the Army, and Deputy Quarter-Master General of the Forces in this Colony. On Sunday the 20th November, I was informed by Major Gregory in a private conversation between us, that something had taken place between Mr. Granet and the Baron, which had caused the latter to bind Mr. Granet over to keep the peace. Such is my high opinion of Mr. Granet, that I immediately replied to him, —of course, you will be bail for him, and tell him I will be responsible for his good conduct either in war or peace. Next morning I was told that it had been all settled, so that I should not be required to be one of the bail. In consequence of hearing an unfavorable opinion expressed as to the Baron's conduct in having refused to fight. I stated that I knew him well to be an Officer of undoubted courage, shown not in squabbling duels, but in important general actions, and that therefore I would go to him and see how the matter stood. I have read the letter in question and consider it a letter couched in private terms, but involving official matter. A practice which I think cannot be too much condemned. I was of opinion that the word disgrace might have been used, as the Baron said he intended it should be inoffensive; but that the letter was ambignous, that it was easy to conceive how the Officer to whom it alluded should take offence. I succeeded in satisfying the Baron that the word disgrace should be withdrawn, and I went to Mr. Granet who expressed that he would be satisfied if it was withdrawn; but the Baron's friend Mr West would not consent that the word disgrace should be withdrawn, until the word despicable should first be withdrawn, or ultimately withdrawn, I was opinion that the word disgrace should first be withdrawn as having been the cause of the misunderstanding, and that then of course Mr. Granet would have said that the word despicable was no longer applicable. But as Mr. West did not consent, the matter could not be settled, and it was left to be proceeded with in Court, From all that passed between me and Mr. Granet, I had not the slightest doubt that he had sent a massage to the Baron requesting satisfaction, If I had thought he had not done so I would have thought that the word despicable applied to his conduct, and most probably expressed my opion pretty plainly to him on the subject. I also understood that this message had been sent by Capt. Cowper.

Cross examined.—It was after Mr. Granet and Capt. Cowper had been bound over, that I interfered. I am of of opinion that if under the circumstances of this case Mr. Granet had acted otherwise than he did, he would have felt degraded. I am decidedly of opinion that as an officer, Mr. Granet could not suffer the word disgrace to have been attached to his name without acting as he did. He had one of two courses to pursue. The one was to ask for satisfaction in the spirited way he did. The other and probably the more preferable one, by preferable I mean as being more consistent with the articles of war,—would have been to seek redress through his Commanding Officer from the Commander-in-Chief; although I do not think it to be expected that a young a man could be expected to follow this last course, and if I had been in Mr. Granet's place I would most probably have acted as he did, To have followed the other course, would in the Army most decidedly not have been considered to have been the conduct of a high spirited Officer I am aware that Officers have been brought to trial before Courts Martial for unofficerlike and ungentlemanly conduct, in not having demanded satisfaction for insults offered to them, and for this have been sentenced to be dismissed from his H. M. Service, and the sentence confirmed by His Majesty, and this notwithstanding the articles of war forbidding Officers to fight duels. I may add, in explanation, that Mr. West was ultimately satisfied, and acquiesced in my opinion that the word disgrace should be first withdrawn; but the Baron's friend wished that the Officers should make to the Baron some amende for having called him out, which they declined; and that the Officers after this explanation should be on the same terms as formerly with the Baron, which they for some reason or other declined, and so the arrangement was broken off.

The Prosecutor closed his case.

The Defendants called—

GILLESPIE DUNLEVIE.— I am Paymaster in the 98th Regiment. On the day of the trial in the Resident Magistrate's Court, after Mr. Granet had given his evidence, and I had given mine, the Baron was leaving the Court; in passing me, he addressed me as follows:—"Dunlevie, Mr. Granet and Mr. Kennedy have cut me, and look disdainfully or insultingly at me in the streets, because I have taken a different view of the case to what they have done."

I said "the difference is, that they conceive that you haye refused to hear their complaints and do them Justice." He replied "never mind that, I mean to tell you that I am a different person in the streets from what I am in my own Court."

The construction that I put on these words at the time was, that if they chose to ask him for satisfaction, he would give it, or that if they continued to treat him in the streets as they had done, he would seek satisfaction from them. So strongly was this my opinion of the meaning of the expression that Mr. Granet having turned round, and asked what the Baron had said, I would not tell him for fear it would lead him to send a message to the Baron.

The day after Major Gregory had received tha Baron's letter, after the contents of it were known to the officers, I mentioned to Mr. Granet the whole of the above conversation between me and the Baron, I am sure I told him the construction that I had put on these words. I am positive that I told Mr. Granet this before he demanded an explanation from the Baron.

After the letter to Major Gregory and particularly after he knew what the Baron had said to me, I would have thought that he had acted unlike an officer and a gentleman if he had not immediately sent a message to the Baron. I would have advised him to have done so if he had asked my advice. I have always understood it to be the rule in the army, that when an officer is obliged for the vindication of his honour to demand satisfaction, it is the duty of some one or other of his brother officers if asked by him to act as his friend on the occasion.

JOHN HARE.—I am Lt.-Colonel of the 27th Regiment, I have been present during the greater part of the trial today, and heard the evidence.

I think that Mr. Granet's conduct has been such as the circumstances of the case demanded from him; and, had I been his commanding Officer, I would have approved of the whole of it.

As Commanding Officer of the 27th Regiment, I would have preferred charges for an unofficerlike and ungentlemanly conduct of any officer who had received such an insult as Mr. Granet did, and had not resented it. I did so in the case of an officer in the Regiment, who had refused to give satisfaction to a gentleman in Antigua, he was tried and found guilty and severely reprimanded, but the officers were not satisfied with this, and put him in coventy, and he at last requested permission to retire from the service, which he was allowed to do.

It is certainly considered as the rule in the Army, that when an officer has received an unmerited insult, which makes it necesary for him to demand satisfaction, it is the duty of some one of his brother officers, if asked by him, to act as his friend.

WALTER HARDING.—I am Clerk to the first Puisne Judge. I was present at the proceeding in the Police Court, as to the complaint preferred by the Police officers against Messrs. Kennedy and Granet, I was requested by Messrs. Kennedy and Granet to assist them in their defence as their law adviser, which I did, but of course gratuitously.

The Defendants had received separate summonses before they were arraigned, I made a motion, that they should be tried separately as the justice of the case required it: I made this motion to the Judge and Superintendent of Police, who said it was the usual way, and, that whether summonned separately or not, he would have them tried together, and they were tried together, as the Judge refused the motion.

I had never in that Court seen persons tried together, who had received separate summonses.

Cross Examined.—I made a regular motion, that the Trial should be separated, and said that the justice of the case required it.

The Defendants closed their Case.

The ATTORNEY GENERAL, in Replication called,—Charles George de LORENTZ.—In passing Capt. Dunlevie, on leaving the Resident Magistrate's Court, I said to him, either mentioning the names of the officers, or using the words "these young men," have taken quite an erroneous view of the matter, from the manner which I have just observed they were looking at me; they appear to have a private feeling on the matter, they seem to forget that all I have done has been in my official Capacity. As Judge of Police, I am in every sense an Official man, whatever I may do in my private capacity, that I am liable to be called on, for in my private capacity. Capt. Dunlevie, said, "Yes, but they think themselves aggrieved;" I shrugged my shouldiers and passed on, meaning by that gesture, there we differ

I solemly believe as near as possible, that the above are the very words I used, and not merely the purport of what I said.

The reason I am so certain as to these being the very words I used, is that having heard that it had been reported that I had said something which might be construed as throwing down the gauntlet to the Officers, and wishing to tell Colonel Smith what I had said, I endeavoured to recollect the very words, and in a conversation I had with him in the course of the week following, the 18th of November, the above are the very words I mentioned to him, which I then recollected, and was positive were those I had used.

I meant by the words to convey to Messrs. Granet and Kennedy, that it was illiberal to view, in a private light, what I had done in my official capacity, and I wished them to feel this.

I have some faint recollection, of some conversation between the Deputy Superintendent of Police, and Mr. Harding, in which something was said about its being the practice to try Defendants who had been summoned separately, together, when the offence was the same; but I have no recollection of any motion having been made to separate the trials.

CHARLES FREDERICK PASCHOUD.—I am the Gaoler of Cape Town Prison; I was present at the trial of Mr. Granet and Mr. Kennedy, in the Police Court; and I heard Mr. Harding make the application, which has just been alluded to, Mr. Harding requested, that the Officers might be tried separately, that the justice of the case required it. The Baron said he could have no objection, but he was immediately interrupted by Mr. Auret, the Deputy Superintendent, who said, he was the Public Prosecutor, and as such, he objected to it. This is all which was said on that subject;—I think Mr. Harding's application was addressed to the Baron. He was directly opposite the Baron, and spoke across the table.

The Prosecutor closed his Case.

The Attorney General addrsseedt he Court and Jury for the Prosecution, and Mr. Advocate Musgrave for the defence.

Mr. JUSTICE MENZIES,—Gentlemen of the Jury,—Notwithstanding the able and eloquent address of the Counsel for the defendants, which I am sure, gentlemen, you have listend to with the same, pleasure and attention that I have,—I must agree with the Attorney General, that the duty, which you have to perform, is one of a very simple nature. The prisoners are charged, first with sending and delivering a challenge, and secondly with having sent and delivered a message, inviting and provoking to fight a duel. Now, gentlemen, if neither of these acts, the challenging to fight a duel, and the provoking to fight a duel, is an offence by the Law of this colony,—there is an end of the case at once, for if the law does not make them criminal acts you cannot find the prisoners guilty. It is quite true that the placaat of 1657 if it has created the offence, cannot be founded upon in support of this charge because it is provided by one of the rules of court, that where any crime is charged in an indictment, if such crime or offence has been created by any statute or ordinance, the same shall be referred to in the said indictment, On account of this rule, as the prosecutor has not referred to this placaat, he could not have founded on it as a ground for a verdict of guilty of the crime with which the prisoners are charged. the placaat created the offence, or if the placaat is to be insisted upon, for the purpose of obtaining a particular punishment, or of inducing the court to inflict a punishment which it could not inflict, but for that placaat it ought to be referred to in the indictment. It is my opinion and if I lay the law down wrong, the counsel has a right to bring the matter before the full court, I say it is my opinion, that even if the placaat were held to be in force here, it did not create the offence, but was a declaratory enactment, relative to what had previously been the law, and introduced a new punishment for an offence which was previously punishable by law, It is my province to judge of the law in this respect, and therefore I need not trouble you with my reasons for giving this as my opinion. I shall, however, just read to you the preamble of this placaat:—"The states general of Holland and West Vriesland: To all to whom these presents shall come, or hear the same read,—greeting:—

"Be it known, that, whereas it has come to our knowledge with great regret that *duelling is still practised by our Inhabitants.* * * * ,,

From these words it is clear that duelling had been prohibited previously to the existence of the placaat, that it did not create the law, but was a declaratory statement of what had been the law before. If, therefore, this placaat merely declared what was previously the law, the 56th Rule does not here apply, and it was not necessary to refer to the placaat in the indictment. Fine is one punishment for the offence mentioned in the placaat; and fine is a punishment which could be inflicted for all lesser offences, things which are *mala in se*, but which do not amount to felony, independently of any particular legislative enactment. Therefore fine is not a punishment which has been created by the placaat. It appears to me, that the other punishment mentioned in the placaat, the loss of office, could only apply to offices held under the Dutch government, and, that as the Dutch Government no longer exists here, the placaat could not now be founded upon as authorising or imposing such a punishment. Under these circumstances, I do not think the public prosecutor has failed in his duty, in not referring to the placaat. But I tell you further, I am not aware that by the enactment of such a placaat, declaratory of what was previously the law, the common law is thereby abolished, and that the law as to this offence no longer exists but by virtue of the placaat. It is a new doctrine to my mind, and I shall willingly hear the matter further argued, if an opportunity offers. If it was by the common law of this colony a crime to send a challenge to fight a duel, I do not conceive that law was abrogated by the enactment of the placaat. By the law of this colony (I do not pretend to say what is the law of England on the subject,) but by the law of this colony, as far as I am informed, all acts which are *mala in se* are punished by courts, without any previous enactment. I consider it to be the law of this colony that the sending of a challenge, which is expressing a desire by one party, that another party shall fight with mortal weapons, so as that mortal wounds may be inflicted and death ensue, is a *malum in se*, which the courts in this colony are bound to punish without any postive enactment on the subject. It is common sense, that it cannot be viewed but as an offence against the peace of society, for one man to propose to another to go out and fight, so that one or both may be killed; and so in like manner it is with regard to doing any act to provoke a person to fight a duel. These are my opinions on the law of this colony, and therefore, if youare of opinion that achallenge has beensent by one of the prisoners, and delivered by the other, to fight a duel, then you ought to find them guilty of the crimes with which they are charged, without troubling yourself as to the placaat.

It was also mentioned, that if the placaat was in force there is another placaat (that of 1627) in force also which was passed relative to duels between military men; this last was the mutiny act of the states of Holland; it contained the articles of war in as far as regarded duelling between the military; and as long as this colony was a Dutch colony, that placaat was in force. But it could never apply to the British army; and it cannot apply to the British army at this time, because their conduct is regulated by a mutiny act, by which alone all offences of the military are regulated. Besides the Baron is not a military man, while the placaat refers solely to matters occuring between military men with each other.

Another objection made by Mr. Musgrave was, that you cannot convict the defendants, because it was necessany for the prosecutor in support of the charge to aver, that the apology was asked for, and had been refused by the Baron; for till the apology had been refused, satisfaction was only demanded conditionally, and that this has not been laid in the indictment. It is true, that the indictment does not contain the allegation, that an apology had been demanded and refused. But I do not consider it necessary where the words are, "Mr. Granet requires an apology or satisfaction;" that it ought to be stated in the indictment, that an apology had been demanded and had been refused; for the message, as it stands, is a proposal to fight; and I am not aware of any principle having been laid down by any authority that where such words were delivered it was necessary to show that an apology had first been asked and refused. I do not care, therefore whether an apology was asked and refused or not, The instant the words "Mr. Granet demands an apology or satisfaction" were uttered, the case was out of the reach of recall by the sender or deliverer. The Baron might then have said, I will give you satisfaction, and it was not necessary that he should before that in so many words refuse to give an apology. After that message was sent and delivered, it was out of their power to control the matter. If Mr. Granet and Capt. Cowper had acted in their way; —if Mr. Granet had said,—Go, and quietly ask the Baron if he will explain, and then if he will not do that, then, and for the first time ask satisfaction; and if Captain Cowper had, in compliance with Mr. Granet's direction, merely asked for an apology and received it, no challenge would have been given; and though the affair, the instant Capt. Cowper left Mr. Granet to go to the Baron, would have been so far beyond the recall of Mr. Granet' still, it could not have been said that he had sent a challenge until after the Baron had refused an apology; but here a challenge is sent and delivered—an apology or satisfaction were demanded in the same breath. And it lay with the Baron alone to refuse or accept it. On this gound it was not necessary, in my opinion, for the Baron to have refused an apology, and he might alone have offered satisfaction.

n The counsel for the defendants contended, that it was necessary to support the charge that the prosecutor should have averred in the indictment the intention with which he words, alleged to amount to a challenge, had been used by both defendants;—That the indictment was defective in this respect, in so far as regarded the averment of the intention in the first charge, viz.—that of sending and delivering a challenge because it did not contain the words "both and each," but merely the words "the said Charles Granet and Henry Dougas Cowper, or one or other of them, meaning and intending," That these words could not be construed into an averment, that *both* of the defendants "*meant and intended*;" That the defendants could not discover from these words which of the defendants it was that the prosecutor averred "*meant and intended*," and that on this ground the defendants could not be convicted on this charge.

It is true that in other parts of the indictment the words "both and each" are introduced, and they do not occur in this part of the indictment; but it does not appear to me me that these words, thought common in indictments, are any thing more than words of form; and if you see that Mr. Granet *and* Mr. Cowper, or one or other of them, are charged, it is the same in effect as if the words Mr. Granet and Mr. Cowper did both and each. I hold, therefore, that the words in the indictment are sufficient, and that you ought not to allow the defendants to be acquitted on account of the omission of those words.

I have now gone over all the objections made by the defendants' counsel to the form of the indictment. If it be a crime to send a challenge and to deliver a challenge, or to send a message with the intention of provoking to fight a duel, it is your duty to see if there is any evidence to show that the prisoners are both, or one or other of them, guilty of the offence with which they are charged. You and I are bound to look at nothing but whether duelling is an offence against the law of this colony, and whether the prisoners are guilty of that offence. The law does consider it to be an offence to send or deliver a challenge: the offence may be greater in one case than in another; but whatever may be the conduct of the party who does so—whatever may be the provocation which has been received, —by the civil law of this colony no person can lawfully send or deliver a challenge, or provoke a person to fight a duel. If this be the case, it may be said—how does it happen that the Judge has suffered so much evidence to be led as has been led in this case: I may mention that many more irrelevant statements were made by almost every witness who was examined, than I could have wished. I endeavoured to prevent this as much as possible; but I was frequently unable to do so. It was found impossible to get from the witnesses many of the facts which were necessary to explain the material circumstances in the case without allowing the witness to go into a previous narrative; and in the course of these narratives and explanations several statements were made by which the characters not only of the defendants, but of other witnesses, might have been injured in the estimation of those who heard such statements unexplained. It seemed but just, therefore, to allow the effect of such injurious statements, although irrelevant to the case, to be explained away by other statements equally irrelevant to the case, but necessary to prevent the injurious effects of the former. In this way much valuable time has been taken up with what had otherwise nothing to do with the case. It was necessary for me, although not for you, to know under what circumstances the message had been sent, in order to ascertain whether they aggravated or extenuated the offence. This was necessary, because, by law the offence is punishable at the discretion of the Judge, and this does not mean that he may decide without weighing the circumstances.

He must exercise his discretion, and look at the whole *circumstances*, and see whether there are or are not circumstances which make for or against the prisoners. It was for this purpose that a great deal of the evidence was taken, not to influence your minds, but to enable me, if you should find the prisoners guilty, to ascertain what was the proper penalty. Besides throwing out of your view this evidence, which to you is irrelevant, you are not to look at all at what is the law in the army. It may be an extenuation to Mr. Granet that he, as an Officer, could not, under the circumstances, fail to send a challenge! that may be a great extenuation, but even if it could have been proved, that by the articles of war, he was bound to send a challenge, that would not have excused him in the eye of

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the civil law. The articles of war are not the law which is to guide us in this court; it is the law of this colony upon which you are called to decide; you will, therefore, confine yourselves to the inquiry, did Mr. Granet send and did Captain Cowper deliver a challenge and a message provoking to fight a duel. Having found that, your duty stops, unless you feel it your duty to recommend the defendants to mercy, after having heard the eloquent address which has been delivered to you, by the counsel for the defendants. Even if you think Mr. Granet must have forfeited his commission, you must still find him guilty. Even if it should appear to you that the circumstances bring down the offence almost to nothing, it cannot alter your verdict of guilty or not guilty. Strange verdicts have been given by Juries in cases where the lives of the defendants were at stake. They may have been able to reconcile them to their conscience, although I cannot to their duty; here there is no such danger to the defendants,—their lives are not at stake: and humanity furnishes no excuse for a Jury not doing their duty in this case.

I need not say it is Messrs. Granet and Cowper alone that you are trying, you are not trying the Baron de Lorentz as to whether he has acted properly or improperly in writing such a letter as he did to Major Gregory, nor are you trying Mr. Carey as to whether he acted properly as the friend of the Baron, nor are you trying Mr. West as to whether he acted properly as a Justice of the Peace, nor afterwards as the private friend of the Baron, nor are you trying the Baron for what he said to Capt. Dunlevie. These things you must throw out of your consideration.

Now let us come to the evidence, and see what that amounts to. The only direct evidence against the defendants was that of the Baron and Mr. Carey, because no other persons were present; both have sworn that Mr. Granet came up to them in the street, and the Baron has sworn that Mr. Granet on that occasion, referring to a certain letter, asked to whom he alluded when he used the word disgrace; that the Baron said it alluded to him; to which Mr. Granet said "very well," and went away. As soon as the Baron had rejoined Mr. Carey, Captain Cowper went up and said to the Baron, "I am sent on the part of Mr. Granet, to require an apology for the part of the letter objected to by him, or to require you to give Mr. Granet satisfaction." I need not tell you that in the language of Society, to ask for satisfaction under such circumtances, is meant personal satisfaction, by going out to fight a duel; if you think this was not intended. you will act according to your judgment; but I think you cannot doubt that to ask for satisfaction in contradistinction to an apology, is to ask a person to fight a duel. If you believe the Baron that these words were delivered to him, and understood by him as a challenge to fight, Capt. Cowper is guilty of delivering a challenge to fight a duel, and if you believe that Capt. Cowper did so at the request of Mr. Granet, Mr. Granet is guilty of sending a challenge to fight a duel; then we have the evidence of Mr Carey who did not hear the first expression of Captain Cowper, but who says he had a conversation with Capt, Cowper, from which it appeared that Capt. Cowper had delivered a challenge to the Baron.

Mr. Carey tells you that though he cannot recollect the words, he understood Captain Cowper to be the bearer of a hostile message to the Baron. Therefore the evidence of the Baron is corroborated by Mr. Carey. What Capt. Cowper said, out of the hearing and presence of Mr. Granet, cannot be evidence against him, unless it can be shown, that Mr. Granet had directed him, Captain Cowper to say what he did. Now you cannot have a doubt, from the evidence of Major Gregory and Colonel Smith, that what Captain Cowper did, was at the instigation of Mrt Granet. You find that Mr. Granet asks for an explanation from the Baron, of the words he had used in the letter to Major Gregory, and he admits to Major Gregory and Colonel Smith, what was sufficient to cause them to believe that he had sent a challenge to the Baron

This, however, is a question widely different from what I presented to you before, when I said, I am the Judge of the *Law*. Here *you* are to judge of the *evidence*, My opinion on this subject is not to direct you, though I may have no doubt as to the effect of the evidence, if you have a doubt about it, you will acquit the defendants. It is for you, after you have weighed the evidence, to say, whether you doubt that a challenge was sent by Mr. Granet, and delivered by Capt. Cowper, as the mouth and hand of Mr. Granet, In the indictment it is alleged that Capt, Cowper said to the Baron, "I am authorised by Mr. Granet to say, your conduct has been very despicable and every thing but what it ought to have been." If these words were said by one person to another at the beginning of a conversation, which had nothing to do with duelling, they might be understood as not intended to provoke to fight a duel; but these words were spoken after a challenge had been given and refused, and I put it to you to say whether these words were not calculated to cause the Baron to revoke his determination not to accept a challenge, and whether they can be considered as having been used for any other purpose. For that it is clear from the evidence, that Capt. Cowper did not think the matter was at an end, and he considered the Baron might still change his mind; for after he had uttered those words "despicable &c." he said "if you have any thing to say to Mr. Granet, he will be walking here for the next half hour;" as if he had said—"what will you do now, will this make you fight?" If you believe that Mr. Granet sent Capt. Cowper to give such a message, Mr. Granet is guilty of provoking to fight a duel; this, however, is a question for you to consider and to ascertain what the object was in delivering this message, and here you will refer to the evidence of Col. Smith and Major Gregory, as to these circumstances; and having done so you will not be guided by any expression of an opinion which I have given. I cannot help showing what is my opinion, and I will not pretend to conceal from you the opinion which I entertain; but though you have heard that opinion, do not give it any effect: if I could have mademyself intelligible, in summing up on this point, without expressing that opinion, I would have done so, but I could not. By your verdict express your own opinion and not mine.

Another technical objection has been taken by the counsel of the defendants, to wit,—that, though you should be certain that a hostile message has been sent, yet you cannot convict the defendants unless the words proved are the very words laid in the indictment. Mr. Musgrave has referred to the law of England for this principle; and here I may remark, that he contended the indictment should have been drawn in a certain way as prescribed by the charter. There is no doubt but that by the clause to which he refers, the judges are bound in making the rules to adhere as nearly as may be to the rules which obtain in the courts in England; but it leaves it to the discretion of the judges to say, what shall be the forms to be used here. It is possible that the judges have not done their duty in this respect, and that instead of making the 40th ordinance and the rules of court applicable to proceeding in criminal matters, they should have taken up an Engligh style book and said, these are the forms which are to guide the prosecutor in framing indictment: but blameable as the judges may be, they have not done that, and have not made the law of England to be the law here, applicable to such matters; and unless in respect of some rule or ordinance in force in this colony, no indictment can be rendered defective by any want of form which would render an indictment defective in England. It is quite fair and proper for counsel in any case where there is doubt to refer to the opinions of the judges in England to illustrate a principle; but that is the whole extent to which such authority can go; and therefore it is no matter what the law of England may be if it is not the law of this colony. Now, I am not aware that the law of this colony is the same as the law of England, as to the form in which an indictment ought to be drawn, which charges a person with challenging to fight a duel. I cannot go so far as the counsel for the defendants went, viz:—that any variance which does not change the sense of the words as laid in the indictment is fatal; but I do not understand that it is necessary to prove all the words as laid in the indictment; it is necessary to prove so much as shows the sense, and we are not fettered here as they are in England, where decisions in a long course of time have gradually and imperceptibly introduced very nice distinctions. Principle, the full effect and bearing of which were not originally contemplated, have become firmly established in England by a long train of decisions. When carried out to their full extent, those principles lead to decisions which in many cases Judges would gladly avoid. But they cannot do so without shaking those principles and thus setting loose the law on a number of points which have been decided on those principles: luckily we are not so fettered here, for I find a case quoted in Starkie in which it is said. "Where these words were alleged to have been spoken by the defendant—'Harrison is a scoundrel; if I would have found him an oven for nothing and given him after the rate of £20 per cent, upon the amount of the charges for work and materials, he would have passed my account.' The first witness proved the words 'Harrison is a scoundrel, and if I had allowed £20 per cent, he would have passed my accounts.' The second witness proved the words 'Harrison is a scoundrel, and if I had deducted £20 per cent. he would have passed my account."' That is going the whole hog with a vengeance as to the effect of a variance in the words, while there is no variance in the sense. The words in which the witnesses differ, do not appear to me to have any thing to do with the libellous matter, and yet we find that the English courts have on such grounds as this, given their decision. I think it is fortunate, we are not driven to receive such a case as a precedent, and I know of no law that can warrant me in saying to you it is necessary to aver in the indictment, and prove the very syllables and letters spoken. I think it is sufficient to prove so much of the words as give the import of what is said. I do not consider that so strict an adherence to words and syllables is consistent with justice. The words ought to be laid as nearly as possible, and must be to the same effect as the words to be proved. I do not consider that it is necessary in nine cases out of ten that the prosecutor should set forth the very syllables and letters. If, therefore, you think it has been proved that the message was to the following effect—"I am sent on the part of Mr. Granet to require an apology for the part of the letter objected to by him, or to require you to give Mr. Granet satisfaction."—if you think that those words or that words of the same meaning with them, were used, you ought to consider the charge to have been proved.

It is true, that without throwing the slightest imputation upon the Baron's veracity, there can be no doubt that in many points his memory has been very defective, and it is impossible to give implicit confidence to his recollection. He says, he has lately been labouring under an attack of illness, and that it was a disease which had its seat in the head, and it is clear he does not retain a clear recollection of many things which had passed. You must, therefore, receive what he said with a considerable latitude, and it appears also that Mr. Carey is not a very accurate reporter. He does not pretend to give the exact words that were used, he always says I cannot tell you the exact words, but I will give the purport of them. He cannot swear whether the word "*despicable*" or "*despicably*" was used, but he says it was the one or the other. This very case illustrates what appears to me to be the expediency of the principle of the law which obtains in this colony. On the 19th of November last, a short conversation takes place between three individuals, and two of those individuals, who have thought a good deal about this matter, cannot recollect the exact words which were used. I do not say that in every case we meet with witnesses whose memory is so defective as in the present case. Yet, I say, in 99 cases out of 100 you will find that witnesses do not give exactly the same words; while you find that they give words of the same import, and that the tenor of the words is the same. Therefore, as there is no technical objection to the way in which the words have been set forth, if you think the words which have been proved are the same in their import with the words which have been set forth, then the charge has been sufficiently proved, the evidence of the Baron and Mr. Carey is sufficieutly correct for that purpose. That is a question for you to decide. It is not enough for you to see that a challenge of some kind has been sent; if the challenge alleged to have been sent has been set forth in a particular set of words, and it appears from the evidence that the challenge which was sent was quite different in its import, that evidence would not be sufficient to support the indictment. But if you think that Captain Cowper, at the request of Mr. Granet, demanded from the Baron satisfaction, and that upon that being refused, he, at Mr. Granet's instigation, applied to his (the Baron's) conduct the character of despicable,—that is sufficient to support the indictment.

Here *your* duty ceases unless you choose to go further and recommend the defendants to mercy. For this purpose, I may mention, that it does appear to me that there are strong circumstances of alleviation in favor of Mr. Granet. It has been proved that Mr. Granet is an officer in the army,—that a letter was written by the Baron to Major Gregory, his Commanding officer, in which, speaking of him, he used the word *disgrace*. Major Gregory says that such a word having been applied to him no matter however indifferently it was used, there was no course left for him as a British officer to adopt but to demand satisfaction, and the same is clearly proved by other witnesses. Officers of the first distinction, the one at the head of the Staff here, the and other commanding a regiment Colonel Hare have told you, as has also Captain Dunlevie that in their opinion, it was impossible for Mr. Granet to act otherwise than he has done according to the military code, without making himself liable to have been dismissed from the army. The next question is was it his fault that he was placed in this predicament. If it was by his own fault, then the awkwardness of the predicament can be no excuse for his getting into that predicament. You must, therefore, look into the evidence to see if that was the case. Now what was the evidence which you heard,—that something took place at a certain time, between two officers, Mr. Granet and Mr. Kennedy, and certain of the Watchmen,—that something took place in a case which was heard relative to that occurrence before the Judge of Police; that on the hearing of that case the Judge of Police refused to allow the statements of the officers to be heard, but heard the statements of the Watchmen; and that the Judge thought proper to reprimand the officers, but did not think proper to inflict a penalty. That the officers preferred a complaint against the watchmen before the same Judge which he would not investigate, he having already investigated the case against them,—that the officers made their complaint against the watchmen, in the court of the Resident Magistrate, which was a higher tribunal, where the officers were allowed to give their evidence, and the watchmen were condemned to pay a small fine. Taking these circumstances into consideration, it is impossible to believe, that Mr. Granet's conduct rendered it necessary for the Baron to write the letter to Major Gregory, in which the word *disgrace* was applied to Mr. Granet. Even the Baron admits that he did not consider it his duty to write to the Commanding Officer of Mr. Granet, or to the Commander-in-Chief, between the 3d of Nov., when the occurrence between the watchmen and Mr. Granet took place, and the 18th of Nov., when the case was investigated by the Resident Magistrate. Mr. Granet's conduct, therefore, previous to the decision in the Resident Magistrate's Court, whatever it might have been, was not the thing which brought him into the predicament which rendered it necessary for the Baron to write the letter to Major Gregory; and it has been proved, that it was the decision of the Resident Magistrate on the 18th of Nov., after the case had been tried by a competent court, that was the cause of the Baron writing that letter. Was it, then, blameable conduct in the part of Mr. Granet that caused the Baron to write that letter? If Messrs. Granet and Kennedy did not think they had justice done them in the court of the Judge of Police, were they not to be allowed to apply for justice to a higher court? There is no evidence before this court to show that Mr. Granet was to blame, and that it was the duty of the Baron to write the letter to Major Gregory. I do not doubt, but he thinks the judgment of the Resident Magistrate was an act of oppression against the Watchmen, but what he considers to be oppression. I do not considers to be such, but whether it was so or not, it is not an act of Mr. Granet's, but of the Resident Magistrate. The Baron, however, writes to Major Gregory and uses the word disgrace, when referring to Mr. Granet. There are circumstances here which make the use of the word "disgrace" worse,—the letter was written not immediately after the termination of the proceedings in the Court of the Judge of Police, but after he had heard the evidence of Mr. Granet in the Court of the Resident Magistrate. I have read his letter to Major Gregory attentively, & I say the whole tenor of that letter, even if the word "disgrace" had not been in it could not have failed to irritate Mr. Granet. I do not think the Baron was justified in giving an account of the matter in the manner in which this laboured account was written. The *manner* in which it was written made that letter a matter of provocation. I cannot account for Mr. Granet not having taken offence at other parts of the letter, besides that which contained the word "disgrace" in any other way than by supposing that the term "disgrace," presented itself so prominently to and made such an impression on his attention as to occupy his whole mind, and leave it no room for the consideration of the rest of the letter.

Whether that letter was meant to be official or not, it does not contain any account of Mr. Granet's conduct which can be considered as the official report of a judge. It is a laboured defence of the conduct which the Baron thought proper to pursue in consequence of what the officers had done. I dare say he thought at the time it was his duty to write to Major Gregory, but it appears to me, if he had given himself a little reflection he would not have written that letter. It appears to me, it must have been written by him in a state of great excitement.

It has been said,—evidence has been led to show that this was an official letter; and that the Baron ought not to be called to account for what it contains. I concur with Colonel Smith, that the Baron would do wrong if he suffered himself to be called to private account for every thing which he does in his official capacity. But I do not consider that this remark applies to the letter in question, and that it is a different case to what it would have been had the word disgrace been used when the Baron was giving a reprimand in his Court. But it appears to me further that this letter cannot be considered as an official letter of the Baron as Judge and Superintendent of Police. An official letter is not a letter written to any one on subjects connected with this Office. An official letter is one which in the necessary discharge of the duties of his office, he was in his official capacity called upon to write, but it was not his duty to write his views of the Trial before the Resident Magistrate to Major Gregory as the commanding officer of the defendants.

It might be proper for him to write in that capacity to Major Gregory, but that is not such a letter as in his official capacity he was entitled to write to him, and as to which he was entitled to say, "I am not to be called to account for what that letter contains." It is possible that the Baron may have considered this letter to be strictly an official letter. But what the Baron thought is not the question here. In judging of those circumstances in this case, which may tend to excuse Mr. Granet, we must see what third parties think of the matter, and when we see that the letter begins—"Dear Gregory" and that it is stated to be written in courtesy, it is impossible for a third party to conceive it to be official. Major Gregory says, he does not consider it to be official, so do other. witnesses, though Col. Smith says he considers it to be a demi-official letter, Mr. Granet was therefore well warranted in putting the construction upon it that it was not an official letter, and when an apology was demanded it was refused, not because the Baron or Mr. Carey thought that the letter was official, and one for the contents of which, therefore, the Baron ought not to suffer any private explanation to be demanded of him. The challenge was refused, because the Baron and Mr. Carey did not consider the words of such a nature as to warrant Mr. Granet to demand an apology. Now it appears to me to be also true, that we are not to look at what the Baron intended by using the word disgrace, but to look at the meaning which was attached to it by Major Gregory and Mr. Granet. The Baron tells you, and Mr. Carey tells you, that the Baron meant by the word disgrace, the circumstance of Mr. Granet having been taken forcibly to the Watch-house, They may think that justified the application of the word disgrace I entertain a different opinion. I consider it a disgrace to be put to the bar in this court, and to be convicted of a serious offence, but I should consider it no disgrace to be put to the bar and be acquitted when tried for such an offence. If I were found dead drunk in the streets, and taken by the Police to the Police office, I should feel myself disgraced. But if a person uses a few words jocularly, and a Watchman takes such a person to the Watch-house for using such words, there is no disgrace, except what applies to the Watchman who acts so improperly. Therefore, Mr. Granet was not to blame in considering that the words of the letter implied that disgrace attached to him. I do not mean to say that the Baron meant that disgrace did attach to Mr. Granet but I say it was natural in Major Gregory and Mr. Granet, to attach that meaning to the expression, and you have been told by distinguished military officers, that it was necessary for Mr. Granet to clear his character from the imputation. With regard to the explanation which was given by the Baron and Mr. Carey, I think Mr. Granet was justified in not being satisfied with it. It amounted only to this, the Baron said that the only kind of disgrace which he intended to say attached to Mr. Granet was, that disgrace which in his opinion was the necessary consequence of being forcibly taken to the watch house. This explanation was not sufficient to remove the offence to Mr. Granet's feelings, caused by the application of the term disgrace to him. As an officer and a man of the world, he was entitled to say to the Baron—"No matter what you may think to be disgrace, and no matter whether you are right or wrong in your opinion as to what constitutes disgrace, I will not suffer you to attach the term disgrace in any sense whatever to my name without obtaining an apology or some other kind of satisfaction." I therefore think Mr. Granet was justified in not being satisfied with the Baron's explanation, aud in seeking for *further redress*. This, I think, without sitting here to defend Mr. Granet for sending a challenge, and seeking such redress in that mode.

It is grievously to be regretted that Col. Smith was not walking in the Heeregracht with the Baron when the affair took place. The matter would then have been settled in five minutes, and then Cape Town would have been spared all the rumours and remarks which have been spread abroad for the last two months, and you and I would have been spared the trouble we have had during this long trial. The Baron says he did not mean to give offence; why, then, did he not say so.—that he was sorry he had done so, —and at once withdraw the word disgrace. Mr. Granet would then have been satisfied; or if he had not and had forced the Baron to go out and fight, this could not have inflicted on him a fine too heavy. But fortunately, Mr. Carey gave a different advice. Mr. Granet is sent off with an explanation which is sufficient, and is placed under the disagreeable necessity of either being brought to a court martial or of calling the Baron out.

These remarks may be foreign to the matters you have to try, but I must say, I concur with Col. Smith in the view he took of the affair. The Baron ought to have been advised to withdraw the word disgrace, and have said he did not mean to use the word offensively; I am sorry for having used it in such a way as to be offensive to Mr. Granet's feelings: of course, if he had done so, Mr. Granet would have been satisfied. Then the matter would have ended, and there would have been no necessity for his seeking further *amende*. As to what took place after Col. Smith interfered, we have nothing to do with that. I can only repeat, Mr. Granet was placed in a predicament which forced him to send a challenge or to forfeit his commission, and that he was placed in that predicament by no fault of his own, but by the fault or erroneous and mistaken conduct of others, over whose conduct he could exercise no controul. If you agree with me, you will do well to add to your verdict of guilty, a recommendation to mercy. But as to this, you will judge for yourselves, and throw out of view my opinion altogether.

You will now retire and consider of your verdict, and I entreat you to take the law from me, as to whether the indictment is properly drawn or not, and you will then satisfy yourselves whether Captain Cowper delivered a message, the plain import of which was to invite the Baron to fight a duel, and was intended so to invite him, and whether there is evidence to connect this message with Mr. Granet, so as to make you come to the conclusion that he was authorised by Mr. Granet to deliver this message on his behalf: and if you believe there is proof of these circumstances, your verdict will be Guilty against both the defendants.

Having named Captain Dunlevie, I may observe, you have heard his evidence as to the words which the Baron addressed to him in the Resident Magistrate's Court. I believe the Baron did not mean to give offence by those words, but the effect produced upon Captain Dunlevie's mind, was that the Baron thereby gave an invitation to Messrs. Granet and Kennedy, if those gentlemen felt themselves aggrieved by what he had done, to ask him for satisfaction. So completely convinced was Captain Dunlevie that this was the true meaning of what the Baron had said to him, that he tells you, he refused at the time to tell Mr. Granet what the Baron had said, for fear of inducing Mr. Granet to send a challenge to the Baron. Afterwards, when the Baron's letter had been received by Major Gregory and communicated to the Officers, it became a question how Mr. Granet should act. Then the impression which the Baron's words had conveyed to Capt. Dunlevie's mind, was very naturally communicated by Captain Dunlevie to Mr. Granet, before he sent the message through Capt. Cowper to the Baron.

This circumstance also appears to me to be in Mr. Granet's favor, as it shows that in what he did, he had no intention of calling the Baron to account for any thing done by him officially, in the necessary discharge of the duties of his office, but for a matter for which he believed the Baron was ready to give satisfaction, when required.

The Jury retired for some time, and having returned, delivered the following Verdict:—

Guilty,—but under such imperative circumstances as regarded their characters as Soldiers; and aggravation, as regarded their characters as private gentlemen, that we beg strongly to recommend the defendants to the lenient consideration of the Court.

The Judge then addressed the Defendants to the following effect: Charles Granet and Henry Douglas Cowper, —You have been charged with that which, in the eye of the law, is an offence, and no circumstances under which you were placed can altogether exculpate you; but as you, Lieutenant Granet, were placed under circumstances that rendered it necessary either to act as you have done or quit the army, and as you were placed in that predicament by no fault of your own, but solely by the fault, or at least the erroneous and mistaken conduct of others, over whose conduct you had no controul, and as in seeking for redress you did no more, you required no more than you were entitled to do and require. Justice only requires that you shall be condemned in a small penalty. Your case, Capt. Cowper, follows that of Mr. Granet. You could not, as a brother Officer, refuse that which Mr. Granet had requested you to do. The same remarks apply to your case, as are applicable to Mr. Granet's.

Your Sentence is, that you each pay a fine of £10, and that you be kept in Prison until such fine shall be paid.

I may say, whilst I pronounce this Sentence, that you leave this Court without the smallest ground for attaching blame to your conduct, and without the slightest stain or imputation on your character, as Officers and Gentlemen. —*South African Commercial Advertiser. Feb. 1st and 2d.*

"As the severe weather was by this time over, and I had seen the thermometer on the 17th of January 102° below the freezing-point, had slept in an atmosphere of 82° below, 'under the canopy of heaven,' with a single blanket for a covering, and had had some experience in snow-shoe walking, I may be allowed to make a few remarks upon the intensity of cold in the inhospitable regions of the North, as they are termed. During a calm, whether the thermometer stood at 70° or 7° minus zero, was to me in sensation the same; and although I have experienced a difference in temperature of 80° from cold to heat, and *via versa*, in the course of twenty-four hours, still its change was not sufficiently oppressive to put a stop to my usual avocations. I have been shooting grouse at every range of the thermometer, from the highest to the lowest point, wearing the very same clothing as in England on a summer's day, a fur cap, moccasins, and mittens excepted, instead of hot, tanned leather shoes or boots, and kid-gloves. Merely a cotton shirt was sufficiently to protect my breast from the most intense cold that has ever been registered; and notwithstanding my waistcoats were made double-breasted, I never felt sufficiently cold to be under the necessity of buttoning them: neither flannel, nor leather was worn by me in any way. It must be understood, however, that I am only speaking of the temperature during a calm, or when the atmosphere is but slightly in motion. The lowest descent of the thermomether would not prevent my making an excursion of pleasure; but a higher temperature by 40°, accompanying a stiff breeze, would confine me to the house: the sensation of cold, as I have said before, depends so much more upon the force of the wind than upon the state of the thermometer. Such endurance may appear incredible to those persons who have read each ponderous quarto as is issued forth, fearful in aspect as in subject; and it is no wonder. I was astonished at myself, while sporting in a country always pourtrayed as unfit either for man or beast; but, what was my astonishment, when, hopping before me from bough to bough, the lesser red-pole caught my sight,—the little bird that so frequently adorns, in England, the cottager's room! If so small a creature can find the climates of England and Great Slave Lake equally congenial to its constitution, surely man may exist there. A sudden transition from heat to cold procured cramps; a fact well worthy the notice of those persons who are subject to that painful disease,—for an extra blanket or two, and a trust thermomether to indicate when to put them on and pull them off may save much excruciating pain and many restless nights.—*Narrative of a Journey to the Shores of the Arctic Occean in* 1833-4-5.

Printed at the Courier Press, by SORABJEE DORABJEE